

DOCKET NO.: : SUPERIOR COURT

SEAN HEARTY, ZONING ENFORCEMENT : JUDICIAL DISTRICT OF
OFFICER OF THE CITY OF DANBURY, DANBURY
and LISA MORRISSEY, DIRECTOR OF
HEALTH AND HUMAN SERVICES OF THE
CITY OF DANBURY

v. : AT DANBURY

TAILS OF COURAGE, INC. : July 23, 2018

VERIFIED COMPLAINT

Plaintiffs Sean Hearty and Lisa Morrissey, for their complaint in this action, allege as follows:

FIRST COUNT

1. Plaintiff Sean Hearty ("Hearty") is the Zoning Enforcement Officer of the City of Danbury ("City"), with powers to enforce the Zoning Regulations of the City of Danbury ("Regulations").
2. Plaintiff Lisa Morrissey ("Morrissey") is the Director of Health and Human Services for the City and heads the City's Department of Health and Human Services ("DHHS").
3. Defendant Tails of Courage, Inc. ("TOC") is a Connecticut non-stock corporation with an office and place of business at 39 Smith Street, Danbury, Connecticut (the "Property"). On information and belief, Kristan K. Exner is an officer of Defendant

and has acted at all times relevant hereto as and represented herself to City officials as an authorized agent of Defendant.

4. On June 11, 2014, the Department of Planning and Zoning of the City of Danbury ("P&Z Department") granted a Waiver of Site Plan Application ("Site Plan Waiver"). The Site Plan Waiver permitted a change in the use of the Property from a residence to a "kennel". The Property is in the CG-20 zoning district. A kennel is a permitted use in that district, pursuant to § 5.A.2.a.(51) of the Zoning Regulations. The Site Plan Waiver is attached and incorporated herein as Exhibit 1.

5. The plan submitted in support of the application for site plan waiver showed that the garage would contain three bays to be used for three parking spaces and that there was one outdoor parking space. (See Exhibit 2 attached hereto and incorporated by reference herein.) Based on this depiction, the Planning and Zoning Department determined that the Property had sufficient parking spaces to meet the Regulations' minimum on-site parking requirements of four spaces for the proposed use.

6. The Site Plan Waiver provided that the approval was "granted strictly for the proposed change of use. Any additional changes to the site layout will require a revised Site Plan application." Exhibit 1.

7. After receipt of the Site Plan Waiver, Defendant applied to Hearty for a zoning permit for the proposed kennel use.

8. In the course of Hearty's review of the zoning permit application, Defendant (through Exner) represented to him that Defendants intended to use the Property as a rescue shelter for only a few dogs at a time.

9. The layout plan submitted with the zoning permit application showed that the dogs to be boarded on the Property would be kept in approximately five portable cages to be located within, and on the side of, a detached three car garage located on the Property. The plan also showed that the kennel's office (including a kitchen and reception area) would be located on the first floor ("Unit 1") of a two-story structure previously used as a residence ("Principal Structure").

10. Based on Defendant's representation that the upstairs apartment in the Principal Structure would be used as a caretaker's residence, Hearty determined that no additional parking spaces were required for the apartment use.

11. On October 29, 2014, Hearty issued a zoning permit for the proposed kennel use based on the Site Plan Waiver and zoning permit application. The zoning permit is attached hereto and incorporated by reference as Exhibit 3.

12. On November 5, 2014, Hearty issued a Certificate of Zoning Compliance for the proposed change in use of the Property. Based on the representation of Kristan K. Exner, the Certificate of Zoning Compliance describes the change in use as "CHANGE OF USE TO ANIMAL SHELTER SITE/OFFICES." The Certificate of Zoning Compliance

is attached hereto and incorporated herein by reference as Exhibit 4.

13. In or about June, 2015, Hearty received a complaint from a neighbor of the Property that a large number of dogs were being kept on the Property, that the dogs were kept outside for long periods of time and were constantly barking, and that the conditions on the Property were unsanitary.

14. On June 22, 2015, Hearty wrote to Defendant (in care of Exner) to address the neighbor's complaint. In that letter (a copy of which is attached hereto as Exhibit 5 and incorporated herein by reference), Hearty reminded Defendant of its representation, in obtaining the zoning permit, that there would be only a small number of dogs kept on the Property. Hearty asked Defendant to take appropriate steps to address the complaint (including installing a privacy fence and landscaping to muffle barking). Subsequently Defendant agreed to take dogs in at night and take steps to prevent constant barking.

15. Beginning in or about October 2017, based on inspections and investigation by Assistant Zoning Enforcement Officer Timothy Rosati ("Rosati") and other City officials, Hearty became aware that the Defendant was making changes to the site layout in violation of the Site Plan Waiver, was using the basement and other areas of the Principal Structure to keep dogs (contrary to what had been shown on the plan submitted to the Zoning Enforcement Officer with the Zoning Permit application), and was constructing structures and making other improvements on the Property without required zoning

approvals.

16. On January 11, 2018, Hearty, acting by and through Rosati, issued Defendant a Cease and Desist Order as to the Property ("Cease and Desist Order"). The Cease and Desist Order is attached hereto as Exhibit 6 and is incorporated herein by reference. The Cease and Desist Order was served on Defendant by certified mail to Defendant c/o Kristan Exner at 270 Main Street, Danbury, CT 06810, and 39 Smith Street, Danbury, CT 06810. (Id.) The Cease and Desist Order also was served upon Defendant by State Marshal Steve Pichiarallo on January 11, 2018 in the manner shown on the return of service accompanying the copy of the Cease and Desist Order attached hereto.

17. The Cease and Desist Order stated that an investigation of the Property by Rosati, as well as discussions with other City officials with jurisdiction, indicated the existence of the following conditions:

Tails of Courage, Inc. has improperly expanded the keeping of dogs in crates or otherwise kept into the area of the kennel operations identified as Unit 1 including noted office, kitchen, and reception areas in the principal structure on the lot in violation of the approved zoning permit. In addition, the storage of dogs in crates or otherwise has expanded into the basement of the principal structure, detached garage and in outdoor areas in violation of the approved zoning permit. Approved parking spaces for the uses, on site in the detached garage and in the designated outdoor area have been converted into space for the storage or keeping of dogs in crates or otherwise. Non-permitted detached structures (outdoor pens and a framed enclosure) have been erected without proper approvals or permits.

18. The Cease and Desist Order stated that the cited conditions violated §§ 8.C.1.a., 10.B.1.a.(1), 10.B.1.a.(4), and 10.D.6.a.(1) of the Regulations. The Cease and

Desist Order ordered Defendant to discontinue and/or remedy the cited violations and conditions within ten (10) days of the date of the Cease and Desist Order.

19. Defendant failed to appeal the Cease and Desist Order to the Zoning Board of Appeals as permitted by Connecticut General Statutes § 8-7.

20. Although Defendant filed an application for Site Plan Approval on or about December 7, 2017, the Department of Planning and Zoning denied that application on February 1, 2018, based on the application's failure to comply with the Regulations in several respects. A copy of the February 1, 2018 denial is attached hereto and incorporated herein by reference as Exhibit 7.

21. Despite repeated later requests from Hearty and the P&Z Department to file an application for site plan approval that reflects the changes to the layout and otherwise shows how the Property will be brought back into compliance with the Regulations, Defendant has failed to submit such an application.

22. In addition to the violations noted in the Cease and Desist Order, Defendant has engaged in other unapproved activities and changes to the site layout, including but not limited to reconstructing a portion of the garage within the rear yard setback in violation of § 5.A.3 of the Regulations, and the keeping of dogs on the Property that are less than four months old in violation of Section 2.B of the Regulations.

23. Defendant's refusal to comply with the Cease and Desist Order and to

comply with the other Regulations referred to above is willful.

SECOND COUNT

24. Plaintiffs repeat and reallege paragraphs 1 through 23 of the First Count as if fully set forth herein.

25. Plaintiff Morrissey, as the Director of DHHS, is authorized, pursuant to Chapter 368e of the Connecticut General Statutes, to enforce the State's Public Health Code enacted pursuant to §§ 19a-36 and 19a-37 of the Connecticut General Statutes, as well as all regulations adopted by the Commissioner of Public Health pursuant to the Public Health Code relating to the preservation and improvement of the public health and preventing the spread of disease within the City.

26. Morrissey is authorized by the Charter and Code of Ordinances of the City to administer and enforce provisions of the Code of Ordinances relating to the preservation and improvement of the public health and preventing the spread of disease within the City.

27. Specifically, Morrissey has the following powers and duties that are relevant to this action:

- a) Section 19-13-B103c(f) of the State of Connecticut Public Health Code directs and authorizes a local director of health to prevent nuisance conditions or threats to health arising from the discharge of sewage to drains, roads, and private properties.
- b) Section 19a-340 of the Connecticut General Statutes prohibits the discharge of

filthy water from one property onto another.

- c) Sections 9-18(1) and 9-24 of the City's Code of Ordinances prohibit the accumulation of animal waste and the maintenance of animal living facilities in such a manner that becomes offensive to others.
- d) Section 19a-206(d) of the Connecticut General Statutes empowers the director of health to preserve public health and prevent the spread of disease, including the spread of diseases from animal to animal and from canines to humans.

28. Beginning in or about October 2017, DHHS began receiving complaints about unsanitary conditions on the Property.

29. On October 10, 2017, DHHS responded to complaints from a neighbor about rat infestation on her property due to conditions on the Property, as well as repugnant odor emanating from the Property. Health Inspectors Veasna Roeun and Zack Drzal inspected the Property on that day and found unsanitary and unsafe conditions including but not limited to the following: strong overwhelming odors in both the garage and Unit 1 (first floor) of the Principal Structure consistent with animal waste and droppings; the presence of dog feces and urine throughout the Property; and evidence of rat infestation.

30. On November 3, 2017, DHHS Health Inspector Rouen and Danbury Police Officer Stephen Cameron conducted a follow-up inspection of the Property. At that time Health Inspector Rouen found that the odor of animal excrement and filth throughout the Property was even more overwhelming than had been observed in the previous

inspection. The inspection also revealed that there were currently 57 dogs on the Property. Health Inspector Rouen and Officer Cameron also observed that multiple dogs shared the same animal crates and cages, and that crates and fenced in animal cages were located outside of the structure. The garage, which Defendant was using to house dogs overnight, was poorly maintained and unsanitary. The dog crates and cages contained feces and urine that appeared to be more than a day old. Feces and urine as well as disinfecting chemicals were being hosed into a floor drain in the garage to an unknown outlet.

31. On December 19, 2017, Officer Kelli Peet from the Connecticut Department of Agriculture's ("DOA") Animal Control Division, as well as Danbury Police Officer Jay Mortara, the City's Animal Control Officer, inspected the Property. They observed a flood in the basement of the house, and requested assistance from the City's Fire Marshal and DHHS due to concerns with sanitary conditions and the possibility of an electrical fire. DHHS Inspector Roeun and Deputy Fire Marshal Handou responded, and Inspector Roeun noticed that conditions had not improved since the previous inspection. Dog food was improperly stored in standing water, allowing rodents to feed. On the exterior of the house along the driveway, Inspector Roeun observed nearly a dozen rat holes leading to the basement.

32. Officers Mortara's and Peet's inspection on December 19, 2017 also

revealed the following:

- All animals were still housed in cages covered with feces and urine;
- Dogs were being transferred from cage to cage in an attempt to clean with only hot water and no type of formal sanitation;
- Feces were being scraped from floor liners out onto the frozen ground;
- The cages in which the dogs were kept were caked with dried feces;
- The walls and the floors inside both the house and the garage were covered with feces (diarrhea);
- The officers observed a volunteer of Defendant walking the dogs through the kitchen out to the street in front and through the snow in an attempt to clean the feces from their legs and feet; and
- One dog was in need of immediate medical attention from sores on her feet from standing in feces and urine; the dog could not bear her body weight on her paws.

33. On January 3, 2018, the DOA's Animal Control Division issued a Warning Notice ("DOA Notice") to Defendant. The DOA Notice is attached hereto and incorporated by reference as Exhibit 8. The DOA Notice ordered Defendant to remove all animals from the Property within twenty four hours, and required Defendant to do the following:

Twenty four hours to remove all animals from the property into appropriate housing suitable for the breed of dog and health condition of animals. Conditions of property must be corrected to be suitable for caring for, properly disinfecting, and maintaining appropriate conditions for the number of animals located on property. State animal control must be provided with the addresses of where all animals are located during the transition.

34. On January 5, 2018, Officers Mortara and Peet re-inspected the Property. This inspection revealed that no animals were on the Property on that day. Officer Peet

advised the acting manager, who identified herself as Krystal Lopez, that no animals are to be returned to the Property or new animals accepted at the Property under any circumstances without notification to and authorization from the DOA's Animal Control Division. The officers also discussed with Ms. Lopez the improvements and renovations that would need to be made before the business could re-open, including but not limited to provisions for proper drainage from the garage, the need to tie the garage in to the City's sewer system or provide another acceptable form of sewage disposal, the need to stop hosing feces and urine into the ground, and the need to prevent waste from animals stored in outdoor pens from soaking into the ground. The officers also advised Ms. Lopez that no renovations to any building could be performed until appropriate permits were obtained for each.

35. On January 9, 2018, DHHS, through Inspector Ryan Boggan, issued to Defendant (through Exner) a Notice of Violation ("DHHS NOV #1") based on the conditions observed on or about that day and on previous inspections of the Property. DHHS NOV #1 is attached hereto and incorporated herein by reference as Exhibit 9. DHHS NOV #1 notified Defendant that it was in violation of City ordinances regarding refuse, as well as certain sections of the Public Health Code. DHHS NOV #1 specifically states that the conditions on the Property violate Sections 9-18(a) and 9-24 of the City's Code of Ordinances, Section 19a-340 of the Connecticut General Statutes, and Sections

19-13-B103c(f) and 10-13-B21(a) of the Public Health Code.

36. DHHS NOV #1 was served upon Defendant on January 9, 2018 by Constable Michael Safranek in accordance with the return of service attached hereto as Exhibit 10 and incorporated herein by reference.

37. DHHS NOV #1 stated the "Nature of Violation" as follows:

Inspection of premises of animal housing and adoption agency located at 39 Smith Street in Danbury, DBA Tails of Courage, revealed unsanitary conditions throughout. Overwhelming odor from animal feces and urine in detached garage used to house animals. Detached garage used to house animals unclean, feces observed on walls and floor. Building materials in detached garage are contaminated by urine and feces that have soaked into inadequately waterproofed/cleanable surfaces. Improperly disposed of animal waste from detached garage hosed into driveway/yard and allowed to run off of property/soak into soil. Stores of animal food in basement kept on bare floor, not stored in secure pest-proof containers, allowing access by rodents. Rodent activity on premises evident, including burrow holes and tracks visible in snow.

38. The DHHS NOV #1 advised Defendant of its right to appeal to the State Department of Health within three business days after receipt of the notice pursuant to C.G.S. § 19a-229. DHHS NOV #1 also notified Defendant of its right to appeal pursuant to § 10-21 of the Code of Ordinances within 48 hours from issuance of the notice.

39. Defendant did not appeal from DHHS NOV #1 under either of these available procedures.

40. On information and belief, Defendant has continued to do business at the Property and has continued to accept, store and offer dogs for adoption from the Property,

in willful violation of DHHS NOV #1.

41. On or about February 17, 2018, Defendant sold a puppy from the Property out of a litter of puppies that were being kept on the Property in violation of the above notices. In addition, the puppy (named "Cue") was sold without proper immunizations, and was diagnosed almost immediately after the sale as having Canine Parvovirus, a highly contagious and dangerous condition that can be transmitted to humans.

42. On February 22, 2018, DHHS, acting by and through Morrissey, issued to Defendant (through Exner) a second Notice of Violation based on Morrissey's investigation into the circumstances of Cue's sale from the Property ("DHHS NOV #2). DHHS NOV #2 is attached hereto and incorporated herein by reference as Exhibit 11. DHHS NOV #2 stated that Defendant's actions surrounding Cue's sale violated Sections 19a-206(d), 19a-206(a), and 19a-206b of the Connecticut General Statutes regarding infectious diseases, and described the nature of the violation as follows:

Danbury Health and Human Services Department has received report of positive case of Canine Parvovirus in dog, "Cue," adopted from Tails of Courage facility at 39 Smith Street in Danbury Connecticut on February 17, 2018.

Submit to the Danbury Health and Human Services Department a record of the period of time during which Cue was in the care of Tails of Courage, Inc., including off-site foster care. Submit to the Danbury Health and Human Services Department a listing of all dogs in the care of Tails of Courage, Inc. during the period of time in which Cue was in the care of Tails of Courage Inc., and thus potentially exposed to Canine Parvovirus, as well as any dogs at location(s) where Cue was fostered off-site, if applicable. Submit to the Danbury Health and Human Services Department proof of immunization against Parvovirus greater than 14 days prior to potential exposure for all dogs potentially exposed to Cue. For all

dogs that do not have this proof of immunization, a negative test for Parvovirus conducted within the last 30 days must be submitted to the Danbury Health and Human Services Department.

43. DHHS NOV #2 ordered Defendant to take the actions required within five (5) days of the issuance of the notice.

44. DHHS NOV #2 notified Defendant of its right to appeal to the Commissioner of Public Health within three business days after receipt of the notice. Defendant has not appealed from DHHS NOV #2.

45. Defendant has not complied with DHHS NOV #2.

46. On June 5, 2018, DHHS Inspector Boggan attempted to re-inspect the Property. At that time a person who identified herself as an employee of Defendant refused to allow Mr. Boggan to enter the house or the garage and told him he would have to make an appointment to inspect. While standing outside the front door Inspector Boggan heard barking from several dogs inside the Principal Structure. At the suggestion of the employee, Inspector Boggan called Ms. Krystel Lopez, who identified herself as the Defendant's manager, and Ms. Lopez told him that there were currently 6 to 7 puppies inside the Principal Structure on that day.

47. On June 11, 2018, pursuant to an appointment agreed to by Defendant, Inspector Boggan again attempted to re-inspect the Property. On this occasion Ms. Lopez told Inspector Boggan that he would be allowed to inspect only the exterior of the

Property and the basement, and refused him entry to the first floor (Unit 1) of the Principal Structure or to the garage. However, in an inspection on the next day and several other occasions since the issuance of the above notices by DOA and DHHS, Inspector Boggan, other DHHS inspectors, and other City officials have observed the presence of numerous large cages intended for dog storage in both the garage and the Principal Structure. The presence of these large cages, several of which appear to be permanently affixed to the garage floor, shows that Defendant intends to continue to accept, sell, transfer, and/or offer for adoption dogs at and from the Property notwithstanding the above notices and orders.

48. Because of the Defendant's maintenance of the above conditions and violations of the Public Health Code and City ordinances, Defendant is maintaining a nuisance and/or source of filth injurious to the public health.

49. Defendant's violations of the above notices are continuing and willful.

50. Plaintiff will be irreparably harmed in the absence of an injunction ordering the abatement of the unsanitary conditions described above in that the continued keeping of dogs on the Property without compliance with the statutes, regulations and ordinances referred to above will be injurious to the public health and safety and will likely lead to the spread of infectious diseases and the contamination of the City's water system.

WHEREFORE, PLAINTIFFS CLAIM:

As to the First Count:

1. A temporary injunction ordering Defendant to refrain from keeping or boarding any dogs on the Property at any time prior to the Court's decision on Plaintiffs' application for a permanent injunction;
2. A permanent injunction ordering Defendant to comply with the Cease and Desist Order;
3. A permanent injunction ordering Defendant to bring the Property into compliance with all applicable provisions of the Zoning Regulations and to i) refrain from accepting, keeping or boarding any dogs on the Property, and ii) refrain from making any changes or alterations to any structure on the Property, unless and until Defendant has received all required zoning approvals, including but not limited to issuance of a site plan approval showing compliance of the Property (and all structures and improvements thereon) with the Zoning Regulations;
4. Pursuant to C.G.S. § 8-12, an order that Defendant pay a civil penalty not to exceed TWENTY-FIVE HUNDRED DOLLARS (\$2,500.00);
5. Costs and reasonable attorney's fees pursuant to C.G.S. § 8-12; and
6. Such other relief in law or equity as may seem just and proper to the Court.

As to the Second Count:

1. A temporary injunction ordering Defendant to refrain from keeping, accepting or boarding any dogs in the Property at any time prior to the Court's decision on Plaintiffs' application for a permanent injunction;

2. A permanent injunction ordering Defendant to comply with the DOA NOV, DHHS NOV #1, and DHHS NOV #2;

3. A permanent injunction ordering Defendant to bring the Property into compliance with the provisions of the Connecticut Public Health Code and City ordinances recited above.

4. A permanent injunction ordering Defendant to abate the nuisance and unsanitary conditions recited above, including but not limited to:

a) an order prohibiting the acceptance and keeping of any dogs on the Property until authorization in writing from DOA and DHHS;

b) an order requiring submission to and approval by DHHS of:

i) a plan for the control, collection and disposal of all stormwater drainage, as well as solid and liquid animal waste, which plan shall include but not be limited to provisions for making appropriate storm drainage improvements as required by DHHS, tying the garage into the City's sewer system as required by DHHS and DOA and/or otherwise providing for the disposal of animal sewage in a manner that is in compliance

with the Public Health Code as determined by DHHS and DOA;

ii) a plan for properly storing dog food so as to prevent infestation by rats and other vermin;

iii) a plan for taking all other necessary measures to disinfect and/or otherwise prevent rodent infestation;

iv) a plan ensuring that all dogs on the Property receive appropriate immunizations and vaccines pursuant to law;

v) a plan to prevent the overcrowding of cages with multiple dogs to limit the maximum number of animals that can be kept on the Property at one time, and

vi) such other plans as are necessary to ensure operation of the Property in compliance with the above-recited statutes, codes, and ordinances; and

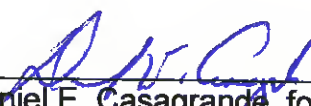
c) an order that Defendant shall not resume boarding or keeping of any animal on the Property until said plans have been approved by DHHS and DOA, the improvements and other requirements of the plans have been made and/or implemented, and DHHS notifies Defendant in writing that the plans have been implemented to DHHS's reasonable satisfaction.

5. Pursuant to C.G.S. § 19a-206(b), a civil penalty of two hundred fifty dollars per each day the Court finds the above nuisance conditions have been maintained or such filth has been allowed to remain after the time fixed by DHHS and/or DOA in the

above notices, such penalty to be payable to the City's Treasurer; and

6. Such other and further relief in law and equity as may seem just and proper
the Court.

THE PLAINTIFF,
SEAN HEARTY, ZONING
ENFORCEMENT OFFICER OF THE CITY
OF DANBURY, AND LISA MORRISSEY,
DIRECTOR OF HEALTH AND HUMAN
SERVICES OF THE CITY OF DANBURY

By 
Daniel E. Casagrande, for
CRAMER & ANDERSON, LLP
30 Main Street, Suite 204
Danbury, CT 06810
Telephone: (203) 744-1234
Facsimile: (203) 730-2500
Email: dcasagrande@crameranderson.com
Juris No. 101252

VERIFICATION

STATE OF CONNECTICUT

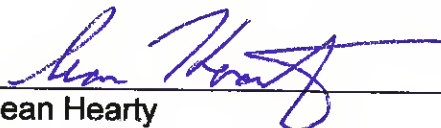
COUNTY OF FAIRFIELD

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ss: Danbury

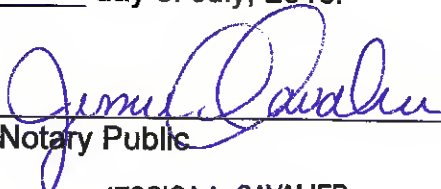
July 23, 2018

I, Sean Hearty, being duly sworn, depose and say that I am the Zoning Enforcement Officer of the City of Danbury, one of the plaintiffs in this action, that I have read the foregoing complaint, and verify that the facts recited therein in the First Count are true to the best of my knowledge.



Sean Hearty
Zoning Enforcement Officer
City of Danbury

Subscribed and sworn to before me this 23rd day of July, 2018.



Notary Public

JESSICAA. CAVALIER
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30, 2020

VERIFICATION

STATE OF CONNECTICUT

)

) ss: Danbury

July 23, 2018

COUNTY OF FAIRFIELD

)

I, Lisa Morrissey, being duly sworn, depose and say that I am the Director of Health and Human Services of the City of Danbury, one of the plaintiffs in this action, that I have read the foregoing complaint, and verify that the facts recited therein in the Second Count are true to the best of my knowledge.



Lisa Morrissey
Director of Health and Human Services
City of Danbury

Subscribed and sworn to before me this 23rd day of July, 2018.


Notary Public

JESSICA A. CAVALIER
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30, 2020

EXHIBIT 1



COPY

CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING & ZONING DEPARTMENT
(203) 797-4525
(203) 797-4586 (FAX)

June 11, 2014

Kristan Exner
270 Main Street
Danbury, Connecticut 06810

RE: Application for a Waiver to Site Plan Requirements, Code #W 14-20
Change in Use: Kennel (Tails of Courage)
39 Smith Street (Assessor's Lot # H12159)

Dear Ms. Exner:

I have reviewed the referenced application for approval of an approximately 1,300 sq. ft. change in use to allow a rescue kennel in a building located at 39 Smith Street. Pursuant to Section 5.A.2.a.(51) of the Zoning Regulations, a kennel is a permitted use in the CG-20 Zoning District.

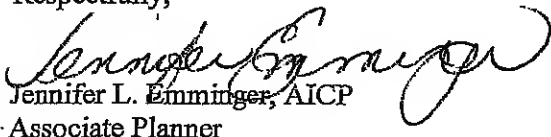
The proposed use requires 4 parking spaces (1 space per 300 sq. ft. of usable floor area). The A-2 Survey provided with the application shows a three-car garage and a gravel parking lot. Therefore, adequate parking is available for the proposed kennel.

Your application for a Waiver to Site Plan Requirements for said 1,300 sq. ft. kennel located at 39 Smith Street (Assessor's Lot # H12159), is approved, subject to the following administrative requirements:

1. Approval is granted strictly for the proposed change of use. Any additional changes to the site layout will require a revised Site Plan application.
2. This approval does not waive any other departmental approvals, requirements or permits that may be necessary to complete this project, including that required for site signage.

The Permit Center should be contacted regarding the process of obtaining a zoning permit. Please contact the Department of Planning and Zoning if you have any questions.

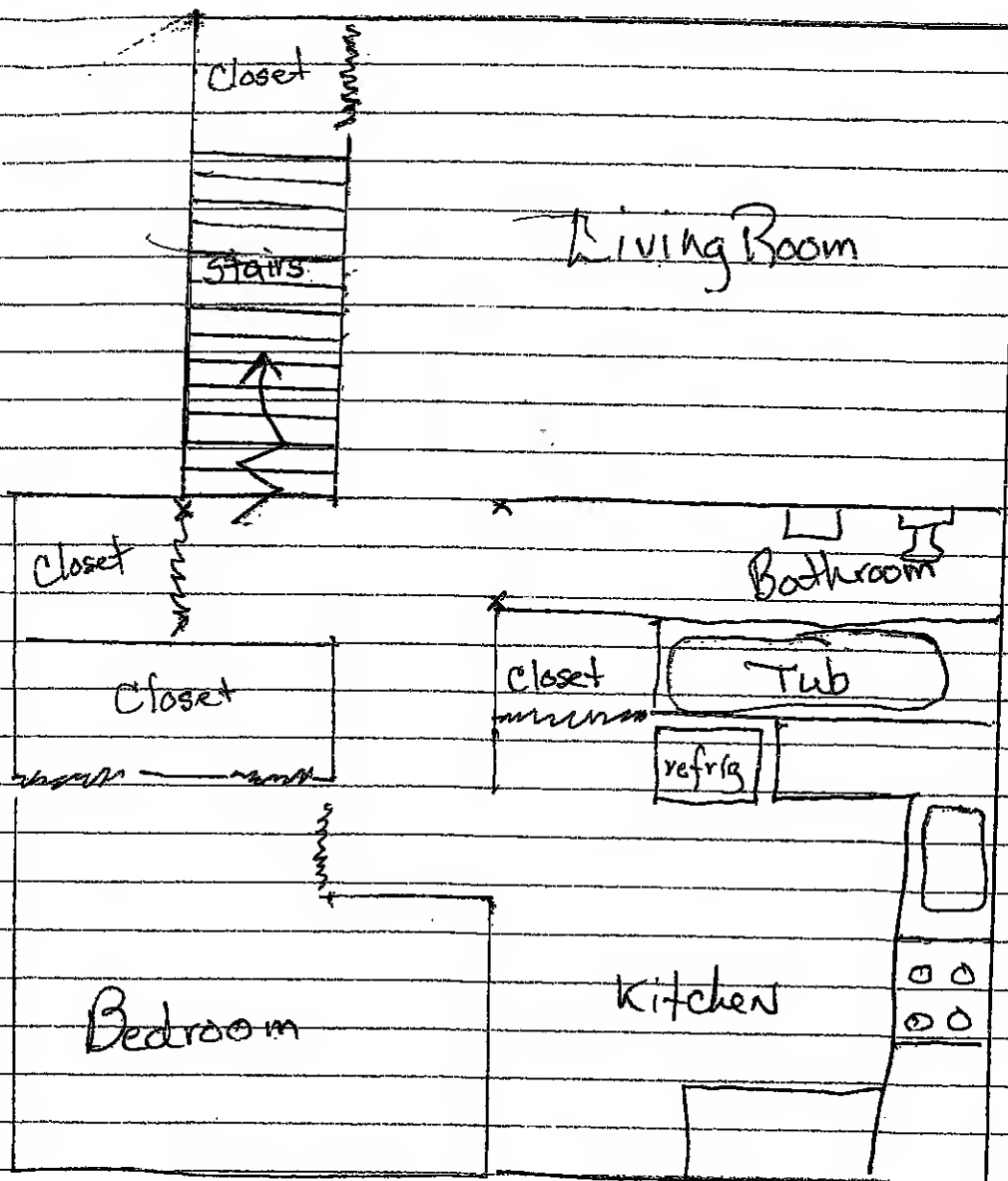
Respectfully,


Jennifer L. Emminger, AICP
Associate Planner

cc: Sean Hearty, Zoning Enforcement Officer
George Gleason, Permit Center
Paul Fagan, Property Owner, 432 Main Street, Danbury, Connecticut 06810

EXHIBIT 2

39 Smith St.
Up Stairs



RECEIVED

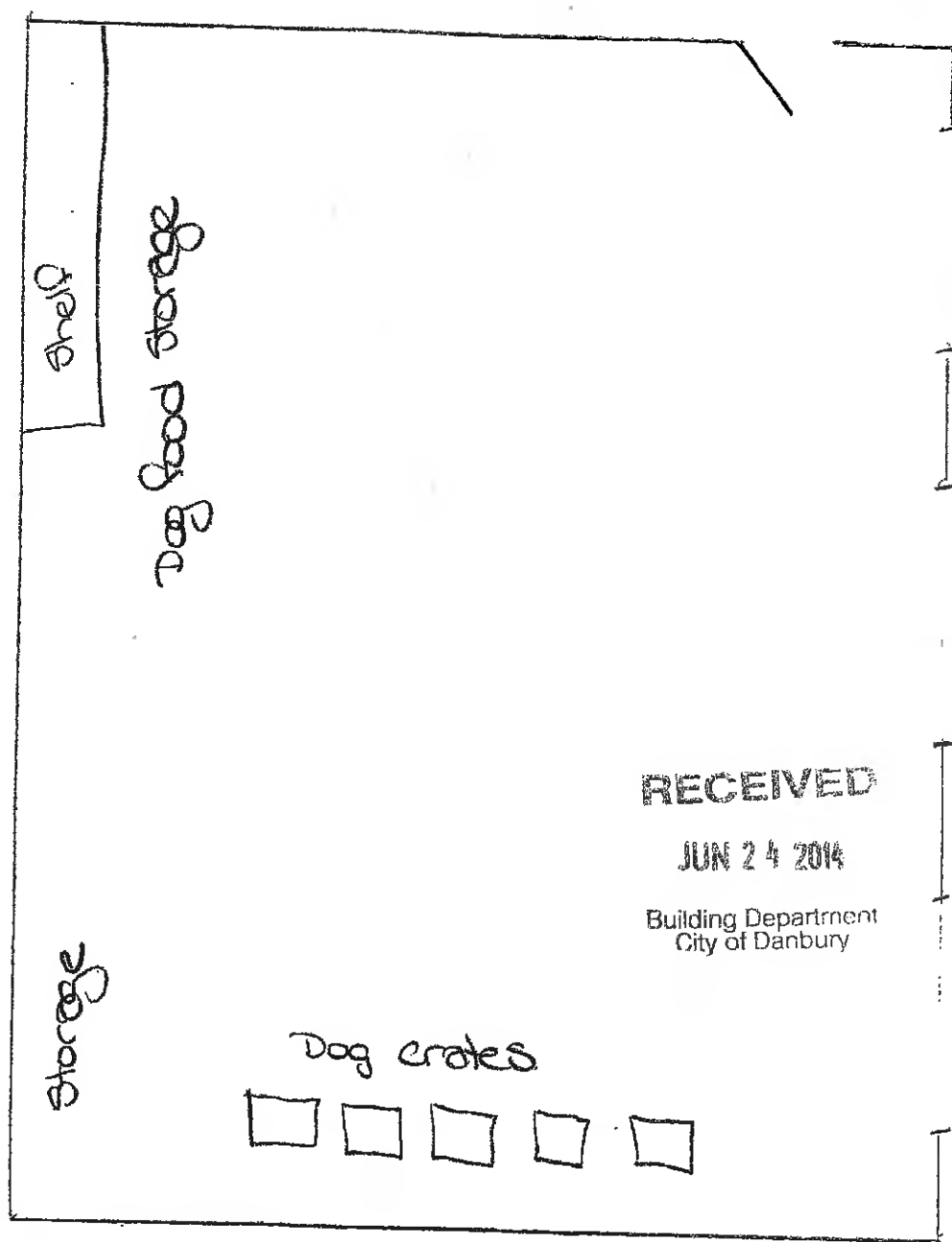
JUN 24 2014

Building Department
City of Danbury

39

Smith St

Garage



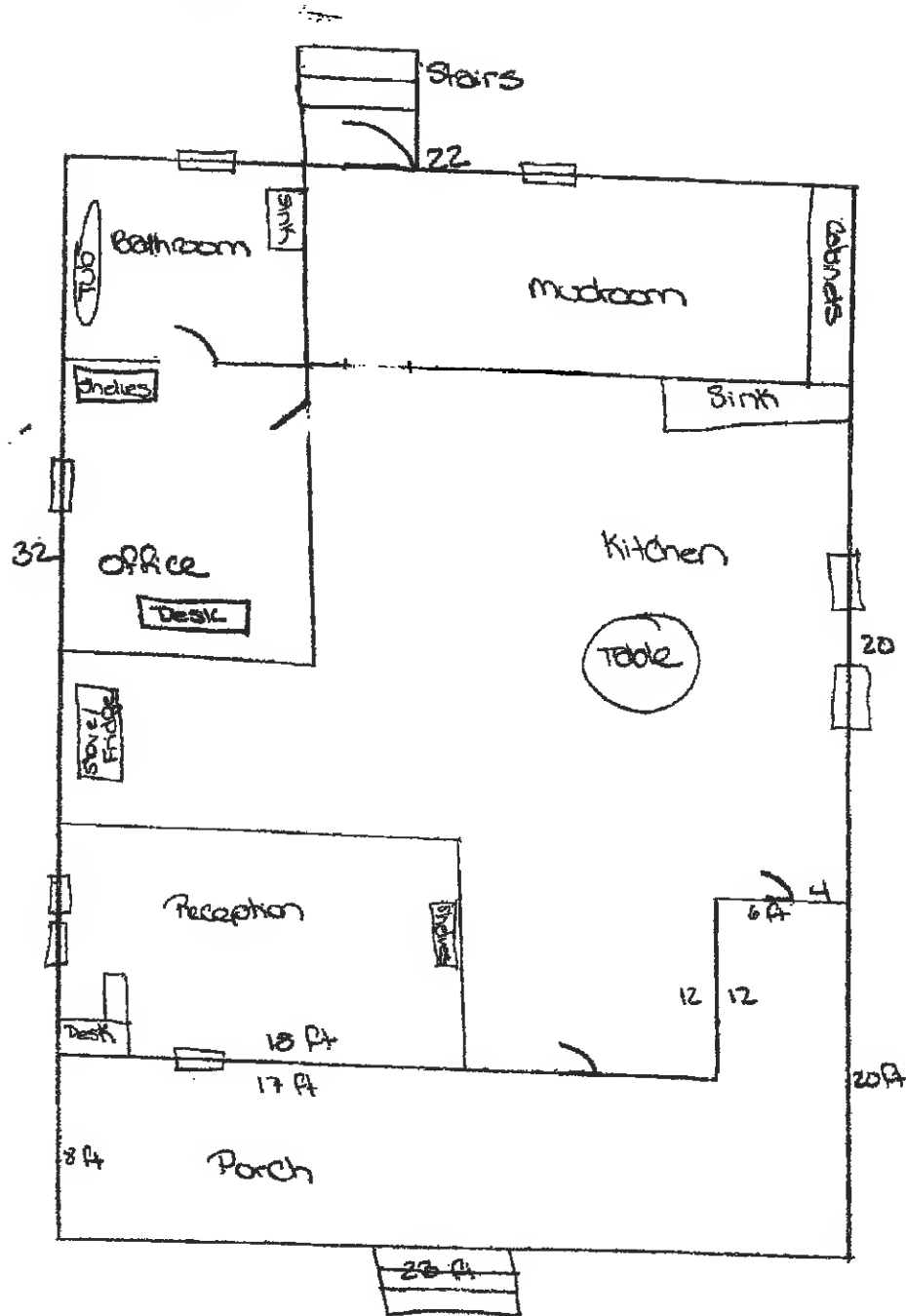
RECEIVED

JUN 24 2014

Building Department
City of Danbury

3 Garage Doors

39 Smith St.



Unit 1

RECEIVED

JUN 24 2014

Building Department
City of Danbury

EXHIBIT 3

Application Number 14-00055165 Date 10/29/14
 Application pin number 982245
 Property Address 39 SMITH ST
 Tax Assessor's Lot Number H12159-
 Tenant nbr, name TAILS OF COURAGE
 Application type description COMMERCIAL CONVERSION OF EXISTING SPACE
 Property Use RESIDENTIAL
 Property Zoning COMM, GENERAL COMMERCIAL
 Application valuation 0

Owner	Contractor
-----	-----
TAILS OF COURAGE, INC	KRISTAN EXNER
270 MAIN STREET	
CONTACT:KRISTAN EXNER	DANBURY
DANBURY	(516) 721-6631
CT 06810	CT 06810

--- Structure Information 000 000 TAILS OF COURAGE-CHANGE OF USE
 Construction Type TYPE 5B UNPROT COMBUST
 Occupancy Type B-BUSINESS

Permit FIRE MARSHAL PERMIT
 Additional desc
 Permit pin number 923623
 Permit Fee00 Plan Check Fee00
 Issue Date 10/29/14 Valuation 0
 Expiration Date 4/27/15

Permit BUILDING PERMIT COMM./INDUST.
 Additional desc
 Permit pin number 948554
 Permit Fee00 Plan Check Fee00
 Issue Date 10/29/14 Valuation 0
 Expiration Date 10/29/15

Permit CHANGE IN USE (NO CONST. COST)
 Additional desc
 Permit pin number 923607
 Permit Fee 75.00 Plan Check Fee00
 Issue Date 10/29/14 Valuation 0
 Expiration Date 10/29/15

Special Notes and Comments

Comply with approved Waiver # 14-20. Maintain approved use.
 No change in footprint.

"Please be advised that pursuant to Public Act No.03-144 you may provide notice of the issuance of this zoning permit by (1) causing notice thereof to published in a newspaper having substantial circulation in the City of Danbury stating that the permit has been issued, or (2) by any other method provided for by local ordinance. Any such notice shall contain (A) a description of the building, use of structure, (B) the location of the building, use or structure, (C) the identity of the applicant, and (D) a statement that an aggrieved person may appeal such decision to the Zoning Board of Appeals in accordance with the provisions of Section 8-7 of the Connecticut General Statutes, as amended by Public Act no. 03-144."

Other Fees STATE LAND USE FEE 60.00

Fee summary	Charged	Paid	Credited	Due
Permit Fee Total	75.00	75.00	.00	.00
Plan Check Total	.00	.00	.00	.00
Other Fee Total	60.00	60.00	.00	.00

Application Number 14-00055165
Application pin number . . . 982245
Grand Total 135.00 135.00

Page 2
Date 10/29/14

.00 .00

EXHIBIT 4



CITY OF DANBURY
Department of Permit Coordination
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

Certificate of Zoning Compliance

Issued Date: 11/05/2014 Application #: 14-00055165 Parcel #H12159-

Property Zone: CG-20

Owner: GARDNER PAUL M & DONALD L
Contractor: KRISTAN EXNER

Property Address: 39 SMITH ST

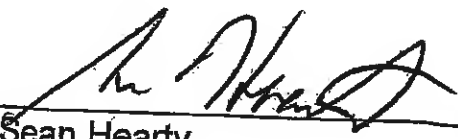
Owner Address: 432 MAIN ST.
DANBURY, CT, 068104730

Application type: COMMERCIAL CONVERSION OF EXISTING SPACE

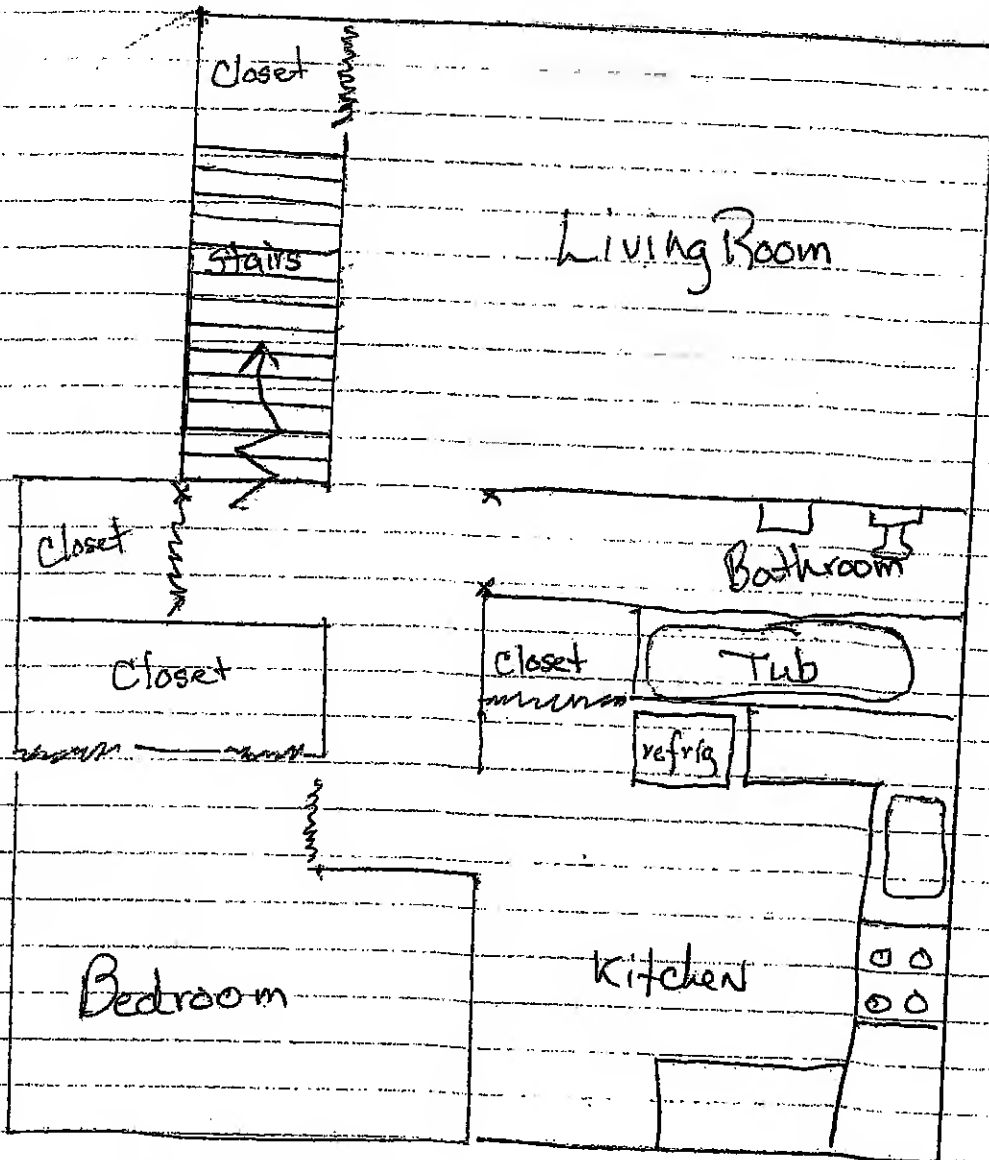
Work Description: TAILS OF COURAGE - CHANGE OF USE TO ANIMAL
RESCUE SITE/OFFICES.

Stipulations or conditions:

Approved.....


Sean Hearty
Zoning Enforcement Officer, City of Danbury

39 Smith St.
Up Stairs

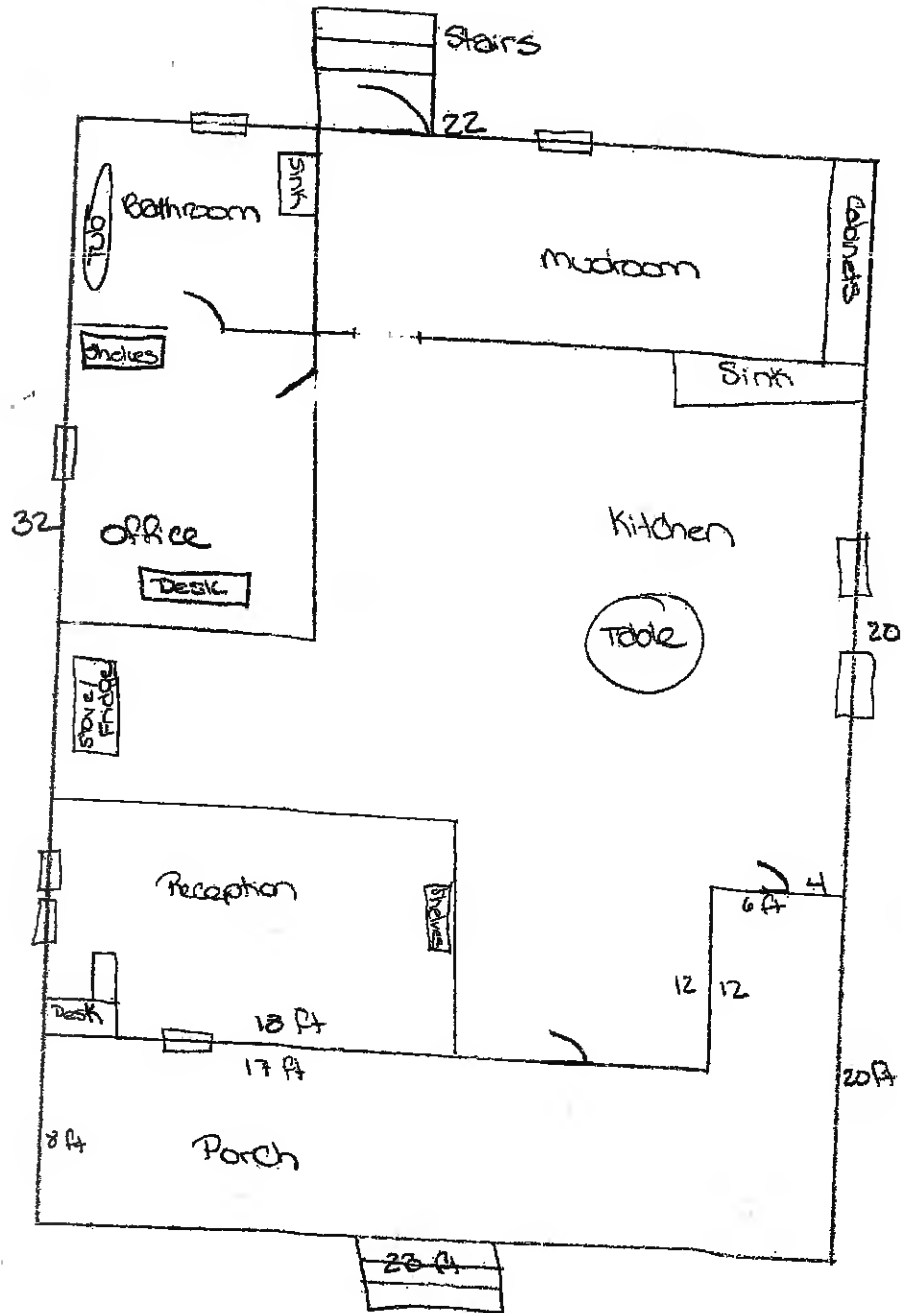


RECEIVED

JUN 24 2014

Building Department
City of Danbury

39 Smith St.



Unit 1

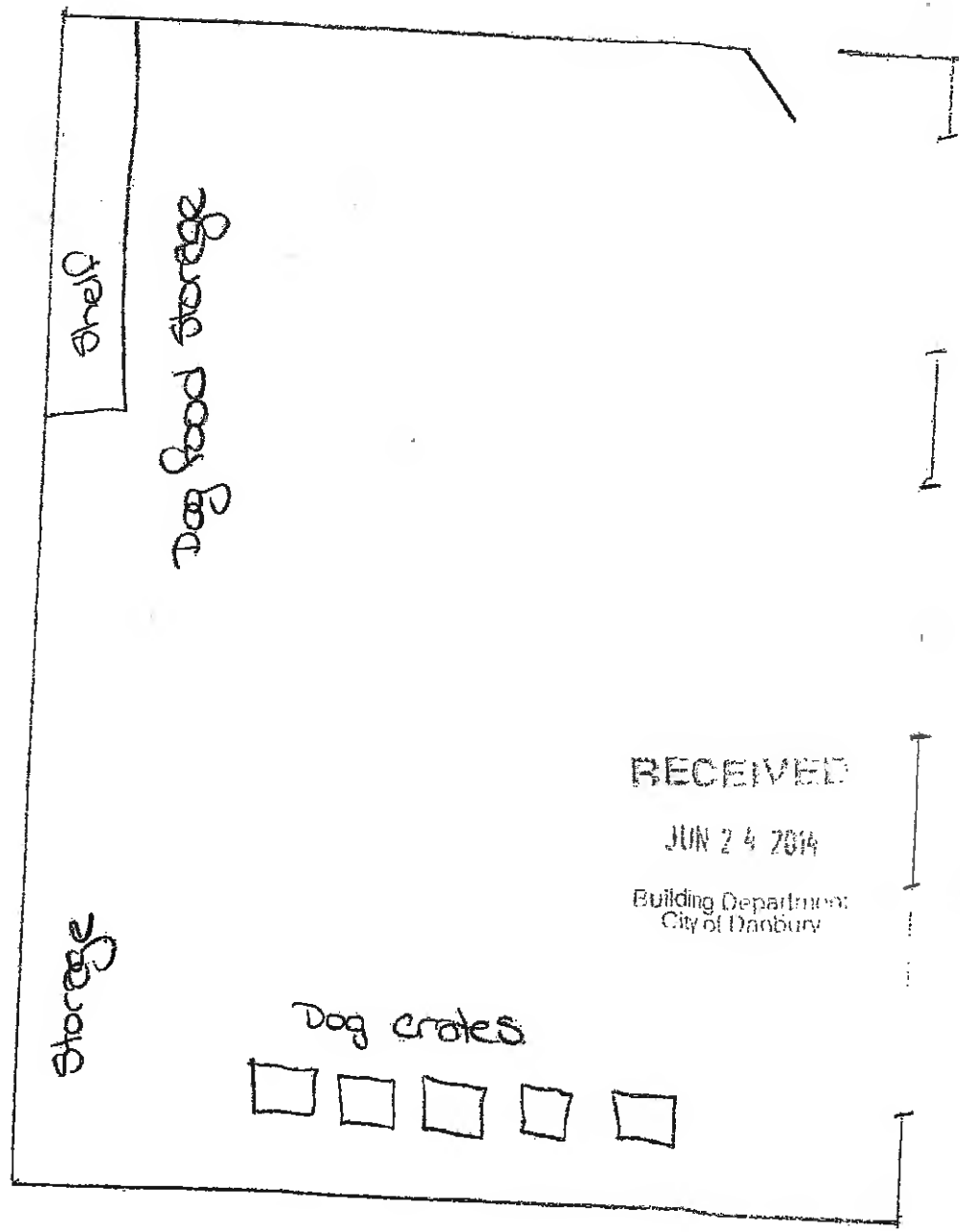
RECEIVED

JUN 24 2014

Building Department
City of Danbury

189
Smith St

Garage



RECEIVED
JUN 24 2014
Building Department
City of Danbury

3 Garage Doors

EXHIBIT 5



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING & ZONING DEPARTMENT
www.ci.danbury.ct.us

(203) 797-4525
(203) 797-4586 (FAX)

June 22, 2015

Kristian Exner
39 Smith St.
Danbury, CT 06810

Re: Tales of Courage Inc., 39 Smith St. (Tax Assessor's lot #H12159)

Dear Ms. Exner:

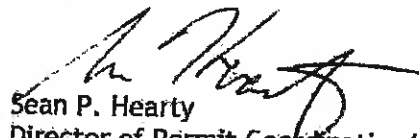
I received a copy of a letter sent to you regarding problems that your neighbor (Juel Reid) is having at 412 Main St. which are caused by the operation of your business. The letter explains that the two of you spoke about how you both intended to use your properties. It also refers a conversation between the two of you regarding sharing the cost to have a fence installed along the common property line.

When you approached me and described your operation, I don't believe we limited the number of dogs that would be kept on site. We rely on the State for their guidance in this matter. Unfortunately, this has become an issue because there are so many dogs being kept on the site. I expected there to be fluctuations in the number of dogs but not so many that they become disruptive to the neighborhood. The number of dogs also leads to two other issues, the first being the noise from 15+ dogs barking for long periods of time. The second is the sanitation and/or odor created by that many dogs relieving themselves on your property.

Since I received her letter, Ms. Reid has contacted my office inquiring if there was anything I could do to help her. She has said that she cannot use the garden as she intended because your operation has become disruptive. I understand both sides of this situation but in the spirit of being a good neighbor; I believe it would be the right thing to do to meet her halfway regarding the installation of a privacy fence and appropriate landscaping on your side to help muffle the barking.

By allowing too many dogs to be kept on your site, your operation is having a negative impact on the residents and the peaceful character of the neighborhood. This is an area of multi-family homes, many not owner occupied, and the residents are hesitant to complain.

Sincerely,


Sean P. Hearty
Director of Permit Coordination/
Zoning Enforcement Officer

SPH/jr

c: Juel Reid, JBR Properties LLC

EXHIBIT 6



PLANNING & ZONING DEPARTMENT
CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810
(203) 797-4525

RECEIVED

JAN 11 2018

CEASE AND DESIST ORDER
Zoning Enforcement

CORPORATION COUNSEL

Tails of Courage, Inc. (Owner)
39 Smith Street
Danbury, CT 06810

Tails of Courage, Inc. (Owner)
C/O Kristan K. Exner
270 Main Street
Danbury, CT 06810

DATE: January 11, 2018

Pursuant to the authority vested in me by the Zoning Regulations of the City of Danbury, Connecticut, you are hereby ordered and directed within ten (10) days of the date hereof, to discontinue and/or remedy the violations and conditions on or in premises identified as:

39 SMITH ST--Assessors Lot # H12159-- Zone: CG-20

PROPERTY OWNER(S): TAILS OF COURAGE, INC.

PROPERTY ADDRESS: 39 SMITH ST DANBURY CT 06810 owned and/or occupied by you; which is in violation of the said Zoning Regulations of the City of Danbury, Connecticut.

An investigation of the subject premises by this office including discussions with other city officials with jurisdictional authority indicates that the following conditions presently exist: Tails of Courage, Inc. has improperly expanded the keeping of dogs in crates or otherwise kept into the area of the kennel operations identified as Unit 1 including noted office, kitchen, and reception areas in the principal structure on the lot in violation of the approved zoning permit. In addition, the storage of dogs in crates or otherwise has expanded into the basement of the principal structure, detached garage and in outdoor areas in violation of the approved zoning permit. Approved parking spaces for the uses on site in the detached garage and in the designated outdoor area have been converted into space for the storage or keeping of dogs in crates or otherwise. Non-permitted detached structures (outdoor pens and a framed enclosure) have been erected without proper approvals or permits.

These conditions violate Section(s) 8.C.1.a., 10.B.1.a.(1), 10.B.1.a.(4) & 10.D.6.a.(1) of the Zoning Regulations of the City of Danbury.

Your immediate attention to this matter is hereby advised and directed.

Timothy Rosati P&Z
Assistant Zoning Enforcement Officer

- a: State of Connecticut Department of Agriculture Animal Control Division
Danbury Police Department Animal Control Division
Corporation Counsel
Building Department
Fire Marshal
Zoning Commission
Health Department

Note: A further inspection will be made of the subject premises after ten (10) days and, if compliance is not established, the full penalties by law and as set forth below will be invoked. You may consult the Zoning Enforcement Officer if there is any question as to the manner and time of establishing compliance.

Right to Appeal: Pursuant to Sec. 8-7 of the Connecticut General Statutes, you have the right to appeal this order to the Zoning Board of Appeals of the City of Danbury by filing an appeal within thirty (30) days of the date of issuance of this order in the office of the Zoning Enforcement Officer (Planning and Zoning Department of the City of Danbury, 155 Deer Hill Avenue, Danbury, Connecticut, 06810). Appeal forms are available in the office of the Planning and Zoning Department.

Penalties for Violation: Sec. 8-12 of the Connecticut General Statutes provides in pertinent part:

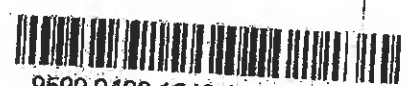
- A. The owner or agent of any building or premises where a violation of provisions of such regulations or orders shall be committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation shall have been committed or shall exist, or the agent, architect, builder, contractor or any other person who shall commit, take part or assist in any such violation or who shall maintain any building or premises in which any violation shall exist, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each day that such violation shall continue. If such offense shall be willful, the person convicted thereof shall be fined not less than one hundred dollars (\$100.00), nor more than two hundred fifty dollars (\$250.00) for each day that such violation shall continue, or imprisoned not more than ten (10) days for each day that such violation shall continue, or both. The Superior Court shall have jurisdiction of all such offenses, subject to appeal.
- B. Any person who, having been served with an order to discontinue any such violation, shall fail to comply with such order within ten (10) days after such service, or shall continue to violate any provision of said Zoning Regulations specified in such order, shall be subject to a civil penalty of two thousand five hundred dollars (\$2,500.00), payable to the treasurer of the City.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kristan K. Exner (Owner)
 Tails of Courage, Inc.
 270 Main Street
 Danbury, CT 06810



9590 9402 1646 6053 4602 12

Article Number (transfer from service label)

7015 0640 0004 1048 7791

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

RECEIVED

JAN 17 2018

PLANNING & ZONING
 CITY OF DANBURY

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

USPS TRACKING #



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 1646 6053 4602 12

United States
Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

Timothy J. Rosati
Asst. Zoning Enforcement Officer
City of Danbury
155 Deer Hill Ave.
Danbury, CT 06810

EXHIBIT 7



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING & ZONING DEPARTMENT
www.danbury-ct.gov

(203) 797-4525
(203) 797-4586 (FAX)

Sent via Certified Mail Return Receipt Requested

February 1, 2018

Dean Martin, P.E.
Grumman Engineering, LLC
20 Knight Street
Norwalk, CT 06851

Re: Tails of Courage, Inc. 39 Smith Street—SP 17-13 (Tax Assessor Lot # H12159)

Dear Mr. Martin:

The Department of Planning and Zoning received an Application for Site Plan Approval, hereinafter referred to as the "Application", and an accompanying site plan referenced in the attached Exhibit A, on December 7, 2017 from Dean Martin, P.E., Grumman Engineering, LLC, agent for the property owner, Tails of Courage, Inc., for approval of site improvements to a kennel use located at 39 Smith Street. The subject parcel totals approximately 12,200 square feet ("sq. ft.") of land in the CG-20 Zoning District. The Department granted a Waiver to Site Plan Application approval on June 11, 2014 to permit a 1,300 sq. ft. kennel in a two-story structure. In the City of Danbury Zoning Regulations ("Zoning Regulations"), a kennel is defined as "any place used for the breeding, boarding, training, or keeping of four (4) or more dogs over the age of four (4) months."

At the time the 2014 Waiver to Site Plan Application was approved, the Department was not made aware on the Waiver application submitted by Tails of Courage, Inc. that there was an existing apartment on the second floor of the structure. The Zoning Permit issued on October 29, 2014 for the kennel use acknowledged existence of said second floor apartment and determined it to be a pre-existing, non-conforming use.

Proposed site improvements, as shown on the site plan referenced in Exhibit A, include the following:

- Construction of a 330 sq. ft. structural addition to the existing garage;
- A fenced-in area dedicated for the keeping of puppies in eight (8) individual crates;
- One structure, generally located parallel to the northern lot line and approximately 780 sq. ft. in size, consisting of a 6-inch thick concrete slab permanently affixed to the ground with its perimeter fenced and a metal roof, separated into six (6) individual stalls for the keeping of dogs;

- One structure, generally located parallel to the southern lot line and approximately 949 sq. ft. in size, consisting of a 6-inch thick concrete slab permanently affixed to the ground with its perimeter fenced and a metal roof, separated into nine (9) individual stalls for the keeping of dogs; and
- A system for the collection and discharge of animal waste into the municipal sanitary sewer system.

Your Application for Site Plan Approval for site improvements for the kennel use located at 39 Smith Street, (Tax Assessor Lot # H12159) is hereby **denied** for the following reasons:

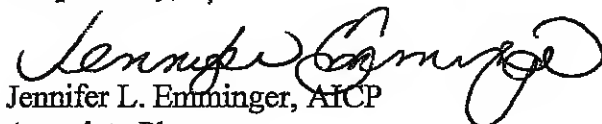
1. The Application is incomplete per Section 10.D.2 of the Zoning Regulations as the property owner failed to sign the Application form.
2. The Application is incomplete as the required Application fee of \$2,160 calculated pursuant to Section 10.B.2 and Code of Ordinances Section 11.2 has not been submitted per Section 10.D.2 of the Zoning Regulations.
3. The Application fails to meet the requirements for submission as required in Sections 10.D.2, 10.D.3 and 10.D.4 as it does not include the required A-2 survey. Note #5 listed on the site plan references a map entitled "Sketch Prepared for William Raveis Real Estate, 39 Smith Street, Danbury, CT", prepared by Surveying Associates, P.C. and dated December 3, 2010. This sketch is not an A-2 survey as it was not signed and sealed by a registered land surveyor nor did it include a required note stating the standard to which the survey was prepared, the applicable class of survey, the type of survey or the boundary determination category.
4. The site plan fails to include the required information listed below per Section 10.D.3 of the Zoning Regulations:
 - a. The proposed use(s) of the property. (Section 10.D.3.a.8);
 - b. All existing and proposed parking spaces. (Section 10.D.3.a.28);
 - c. Location of proposed outdoor trash containers or dumpster. (Section 10.D.3.a.33);
 - d. The number of parking spaces required and provided for each use and method of calculation. (Section 10.D.3.a.45); and
 - e. Number of handicap parking spaces required and provided. (Section 10.D.3.a.46).
5. The Application fails to include the required supplemental documents pursuant to Section 10.D.4.b.(1), (2), and (3) of the Zoning Regulations that requires submission of utility plans for sanitary sewage disposal, water supply, and storm drainage.
6. In accordance with Section 10.D.9 of the Zoning Regulations, all projects for which a site plan is required shall be designed so that there is no net increase in off-site stormwater runoff volume or peak flows from the twenty-five (25) year, 24-hour design storm event and the applicant shall submit a stormwater management plan that adequately controls runoff to prevent flooding or pollution which may endanger public health or safety. The Application fails to include the required stormwater management plan. It is noted that the proposed area of impervious surface is 6,210 sq. ft., which results in more than half of the 12,200 sq. ft. lot covered in impervious surface.

7. The proposed location of the 9-stall fenced structure and the structural addition to the garage are located within the side and rear yard setbacks, respectively, in violation of Section 5.A.3 of the Zoning Regulations.
8. The site plan submitted with the Application indicates that the lot size is .29 acres, and the proposed building coverage is 29.3%. Maximum building coverage permitted in the CG-20 Zoning District is 30% (refer to Section 5.A.3.). Upon further review and calculation, it has been determined by the City that the actual size of the lot is 12,200 sq. ft. or .28 acres and the proposed building coverage is 30.3%. Therefore, the proposed improvements, as identified on the site plan submitted with the Application, result in a building coverage that exceeds the maximum permitted in the CG-20 Zone.
9. Section 8.C of the Zoning Regulations requires that parking off the street shall be provided to serve all uses. As noted above in item #4.d, the site plan fails to identify the amount of parking required for both the kennel use and the existing residential use. The site plan also fails to identify the location and dimensions of all required parking to serve the on-site uses. Should the area labelled "gravel parking area" be intended by the applicant to be utilized to comply with the parking requirements, the stalls, aisles, driveways, landscape islands, as applicable, and their associated dimensions are required to be shown on the site plan.
10. The proposed improvements to the kennel use on the property are in violation of the Zoning Regulations and fail to protect the health, welfare and safety of the general public.

In addition to the above, the Department queries whether Tails of Courage, Inc. at this location breeds, boards, trains, or keeps dogs under the age of four (4) months. If so, such breeding, boarding, training or keeping of dogs of this age is prohibited as dogs under the age of four months are not permitted pursuant to the definition of a "kennel" in accordance with the Zoning Regulations.

Please contact the Department of Planning and Zoning if you have any questions.

Respectfully,


Jennifer L. Emminger, AICP
Associate Planner

Attachment

cc: Sean Hearty, Zoning Enforcement Officer
George Gleason, Permit Center
Lisa Morrissey, Director of Health and Human Services
David Newland, Building Official
John Osborne, Acting Fire Marshal
Kristan Exner, Esq., property owner, Tails of Courage, Inc., 39 Smith Street, Danbury,
CT 06810 (*sent via certified mail return receipt requested*)

EXHIBIT A
MAP REVIEWED BY DEPARTMENT OF PLANNING AND ZONING
FOR TAILS OF COURAGE, INC.
39 SMITH STREET
PLANNING CODE # SP 17-13

1. Map titled "Tails of Courage, Inc., 39 Smith Street, Danbury Connecticut", Subtitled 'Site Improvement Plan', prepared by Grumman Engineering, LLC, dated October 13, 2017-revised 11/29/17.

EXHIBIT 8



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
ANIMAL CONTROL DIVISION

COPY

TRADE NAME Tails of Courage

DATE 1/3/18 TIME 1:48pm

LICENSEE _____

STATE LICENSE # _____

LOCATION 39 Smith St

TOWN Danbury

PET SHOP ☐ GROOMING ☐ COMMERCIAL KENNEL ☐ TRAINING ☐ DOG POUND ☐

WARNING NOTICE

You are hereby warned that this facility was found to be in violation of the laws and regulations listed below.

Twenty four hours to remove all animals from the property into appropriate housing suitable for the breed of dog and health condition of animals.

Conditions on property must be corrected to be suitable for caring for, properly disinfecting, and maintaining appropriate conditions to the number of animals located on property.

State Animal Control must be provided with the addresses of where all animals are located during the transition.

A reinspection of this facility will be conducted on or about 1.5.18

Continued violations or failure to make corrections could subject you to fines and/or suspension or revocation of license. Dog pounds could be subject to closure.

If you have any questions regarding this matter you can contact the State Animal Control Division at 860-713-2506.

Officer

K. Peck

Owner / Agent

[Signature]

EXHIBIT 9

**CITY OF DANBURY
HEALTH & HUMAN SERVICES DEPARTMENT**



**155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810
Tel (203) 797-4625 Fax (203) 796-1596**

NOTICE OF VIOLATION

ISSUED TO:

**Kristan K. Exner, Esq.
120 Columbus Place, Unit 17
Stamford, CT 06907**

VIOLATION AT:

**Tails of Courage, Inc.
39 Smith Street
Danbury, CT 06810**

DATE: 01/09/2018

INSPECTOR: Ryan Boggan

You are hereby notified of violation(s) of local ordinances regarding **REFUSE, ANIMAL WASTE, & RODENT HARBORAGE** as shown below:

LOCAL ORDINANCE

SECTION: 9-18(a)

No person shall cause or permit the accumulation or deposit in any building, outhouse, yard or enclosure of any dung, filth, manure, offal, wash or dirty water, or brine which shall become offensive to anyone, or set up or continue any privy in such place or manner that the same shall become unwholesome or offensive to anyone, or make or maintain any deposit or accumulation of manure, garbage, decaying vegetables, meat, fish, offal, ashes, or any decaying matter, except in an enclosed basement, box, vault or cellar not less than 40 feet distance from any street line and from any dwelling or public building; nor shall any garbage or septic waste trucks park within said 40 feet distance from any street line and from any dwelling or public building except while collecting or disposing of garbage or septic waste.

9-24

No person shall keep any animal or fowl in any pen, sty, or other place in such manner that said place shall become unwholesome or offensive to any person, nor keep or maintain any hen house within forty (40) feet of the street line, or of any dwelling house or public building.

STATE OF CONNECTICUT GENERAL STATUTES

SECTION: 19a-340

Any person who places, collects or allows to remain upon the surface of land owned or occupied by him, or discharges or allows to be discharged from his premises upon the land of another or upon any public land, any filthy water, garbage or other filthy or noxious matter, whereby the owner or occupant of land in the vicinity thereof is injured or annoyed, or discharges or deposits upon the watershed of any stream or reservoir used to supply water to any community filthy or noxious matter, or any person who, outside of a city or borough, in any town, engages or assists in the business of manufacturing fertilizers or other products from refuse animal matter, at any place within half a mile from a public highway, without license from the director of health of such town, shall be fined not more than fifty dollars. The court before which such conviction is had may order the accused to remove such nuisance within three days, and, upon his failure to do so, it shall be removed by a constable of the town where such nuisance is maintained, and the court may tax the cost of the same against the accused and issue execution therefor.

STATE OF CONNECTICUT PUBLIC HEALTH CODE

SECTION: 19-13-B103c(f)

No sewage shall be allowed to discharge or flow into any storm drain, gutter, street, roadway or public place, nor shall such material discharge onto any private property so as to create a nuisance or condition detrimental to health. Whenever it is brought to the attention of the local director of health that such a condition exists on any property, he shall investigate and cause the abatement of this condition.

19-13-B21(a)

The owner of premises upon which persons reside or which are frequented for pleasure or business shall keep such premises free from accumulations or garbage, rubbish, rags, tin cans, paper, empty barrels, boxes, or any material which, because of its character, condition or improper storage, may invite the breeding or collection of flies, mosquitoes or rodents, or which may in any other manner prejudice the public health.

APPEAL: You may appeal this violation notice to the State Department of Health under Section 19a-229 of the General Statutes within three business days upon receipt of this notice.
(Rules of practice attached)

NATURE OF VIOLATION

Inspection of premises of animal housing and adoption agency located at 39 Smith Street in Danbury, DBA Tails of Courage, revealed unsanitary conditions throughout. Overwhelming odor from animal feces and urine in detached garage used to house animals. Detached garage used to house animals unclean, feces observed on walls and floor. Building materials in detached garage are contaminated by urine and feces that have soaked into inadequately waterproofed/cleanable surfaces. Improperly disposed of animal waste from detached garage hosed into driveway/yard and allowed to run off of property/soak into soil. Stores of animal food in basement kept on bare floor, not stored in secure pest-proof containers, allowing access by rodents. Rodent activity on premises evident, including burrow holes and tracks visible in snow.

You are herewith ordered to correct these conditions within 30 days

Failure to correct these conditions within the time allowed will require us to take further action under the laws cited. If you have any questions, kindly contact the inspector above.

Liriana Coracci

Director of Health or her agent

1/9/18

Date

CC:

Corporation Counsel

Zoning

Fire Marshall

Local Health Appeal and Hearing Process

This is a guide to the local health appeal and hearing process for the state of Connecticut Department of Public Health Hearing Office ("Hearing Office"). Please be advised that this information is only a guide and is not to be interpreted as legal advice from the Department of Public Health. You are strongly encouraged to consult with an attorney if you have any questions about a local health appeal.

How the Appeal Process Works:

- Your local health department issues a Notice of Violation (NOV) or order (collectively referred to hereinafter as "Order") to you, the owner or occupant of a property.

If you receive an Order and wish to appeal it, you may appeal by calling (860-509-7566), faxing (860-509-7553), or mailing your appeal to the Commissioner of the Department of Public Health at:

Public Health Hearing Office

Department of Public Health

410 Capitol Avenue, MS#13PHO

P.O. Box 340308

Hartford, CT 06134-0308

Tel. (860) 509-7566 FAX (860) 509-7553

- The Rules of Practice regulations that govern the local health appeal and hearing process are found at sections 19a-9-1 through 29 of the Regulations of Connecticut State Agencies "Rules of Practice" link at: Rules of Practice.

Your right to appeal is time limited. You have three business days to appeal after you receive the Order, either by telephone or in writing. If your initial appeal is made telephonically, you must also submit a written appeal that must be received by the Hearing Office within 10 days of the telephonic appeal. See Section 19a-9-14 of the Rules of Practice regulations at the link above for more information.

- Upon timely receipt of your written appeal, a Hearing Officer will be assigned to your case and a hearing will be scheduled at the Hearing Office in Hartford at the address provided above.
- The Hearing Officer may uphold the Order, modify it, or vacate it based on legal analysis, record exhibits, and testimony presented at the hearing. Local Health Departments have the burden of proof (preponderance of the evidence) unless it is a permit denial case, in which case the person appealing the permit denial has this burden.
- The Hearing Officer will issue a written Proposed Memorandum of Decision (PMOD) to you and other parties. You may request oral argument or permission to file briefs after receiving the PMOD. More information is provided in the cover letter to the PMOD.
- After oral argument/filing of briefs, or if none are requested, the Hearing Officer will review the file and issue a final decision, which will be sent to all parties via certified mail.
- An appeal must contain the following information:
 - (1) the name, address, and telephone number of the person claiming to be aggrieved;
 - (2) the name of the issuing authority;
 - (3) the way in which the order adversely affects the person claiming to be aggrieved;
 - (4) the order being appealed; and

(5) the grounds for appeal.

- If you do not have an attorney, you may appear on your own behalf (*pro se*). If you have an attorney you would like to represent you, your attorney must submit an appearance to the Hearing Office in writing. See Section 19a-9-28 of the Rules of Practice regulations at the link provided above. If you are a legal entity, such as a limited liability company (LLC) or corporation, **only an attorney may represent you at the hearing**. If you do not choose to have an attorney represent the entity, you may only testify as a witness and may not make legal arguments, cross-examine witnesses, or otherwise engage in the practice of law.
- If you think you will need an **interpreter** during the hearing, one will be provided free of charge upon request. Please let the Hearing Office know of your request as early as possible. You may NOT use a friend, family member, or coworker to serve as your interpreter or translator during a hearing. If you need an accommodation to fully participate in a hearing, please contact the Hearing Office.
- If you resolve the matter with your local health department before hearing and wish to withdraw your appeal and cancel any scheduled hearing, you must submit the **withdrawal of your appeal in writing** to the Hearing Office.
- If you receive the Notice of Hearing and know that you cannot be at the hearing, please let the Hearing Office know **immediately** and file a **request for continuance** in writing in order to cancel the scheduled hearing and reschedule. You should first contact the local health department and any other parties to the appeal for a position regarding your continuance request, documenting such in your written request.

Appellants who wish to seek low-cost or free legal representation should visit the following websites of Connecticut-based legal services organizations for assistance:

- [Statewide Legal Services or Statewide Legal Services \(Spanish\)](#)
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CITATION WARNING

WARNING NOTICE OF VIOLATION. THIS IS A WARNING AND AN ORDER FOR YOU TO CORRECT THE EXISTING VIOLATIONS DESCRIBED ON THIS NOTICE. THIS IS INTENDED TO INFORM YOU OF A CONDITION THAT IS UNLAWFUL AND REQUIRES IMMEDIATE CORRECTIVE ACTION. YOUR FAILURE TO MAKE CORRECTIONS BY THE COMPLIANCE DATE INDICATED IN THE ORDER OF ABATEMENT MAY RESULT IN ISSUANCE OF A CITATION OR COURT ENFORCEMENT ACTION.

NOTICE OF FINES IF CITATION ISSUED

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Any owner, owner's agent or occupant who has not complied with an Order of Abatement shall be subject to a penalty of one hundred dollars (\$100.00) per day for each day the violation continues after expiration of the specified time granted by the order, or to thirty (30) days in jail, or to both; provided that no such penalty shall be applicable while a reconsideration, hearing or appeal to a court of competent jurisdiction is pending in the matter.

APPEALS

SECTION 10-21 OF THE DANBURY CODE OF ORDINANCES PROVIDES YOU WITH THE RIGHT TO APPEAL THIS ABATEMENT ORDER. THE APPEAL MUST BE MADE IN WRITING TO THE DIRECTOR OF HEALTH WITHIN 48 HOURS FROM THE RECEIPT OF THIS NOTICE. YOU MUST STATE THE BASIS OF YOUR APPEAL AND ASK FOR AN APPEALS CONFERENCE. YOU MAY ALSO APPEAL TO THE STATE COMMISSIONER OF PUBLIC HEALTH UNDER SECTION 19a-229 OF THE CONNECTICUT GENERAL STATUTES WHICH BOROUGH DIRECTOR OF HEALTH MAY, NOT LATER THAN FORTY EIGHT HOURS AFTER THE MAKING OF SUCH AN ORDER, APPEAL TO THE COMMISSIONER OF PUBLIC HEALTH, WHO SHALL THEREUPON IMMEDIATELY NOTIFY THE AUTHORITY FROM WHOSE ORDER THE APPEAL WAS TAKEN, AND EXAMINE INTO THE MERITS OF SUCH CASE, AND MAY VACATE, MODIFY OR AFFIRM SUCH ORDER. (b) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (a) OF THIS SECTION, ANY PERSON AGGRIEVED BY AN ORDER REGARDING LEAD PAINT ABATEMENT UNDER SECTION 19a-111c MAY APPEAL TO THE COMMISSIONER NOT LATER THAN THREE BUSINESS DAYS AFTER THE RECEIPT OF SUCH ORDER. (RULES OF PRACTICE ATTACHED).

9/16/99

ELECTRICAL, PLUMBING AND BUILDING PERMITS

You are hereby advised to contact the Building Department of the City of Danbury to determine whether a building permit is needed to undertake the work required to comply with this order. Please note that electrical and plumbing work to be performed in multi-family residences must be performed by licensed tradesmen under the terms and conditions of a valid permit issued by the Building Department of the City of Danbury.

ZONING NOTICE

Correction of Danbury Housing Code violations will not assure compliance with the Danbury zoning ordinances. Please be advised that if zoning regulations and requirements cannot be met, occupancy of a dwelling unit may not be allowed even if all housing code violations are corrected. Contact the Danbury zoning enforcement officer at 797-4509 if you have any questions regarding zoning compliance.

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THE CONNECTICUT DEPARTMENT OF PUBLIC HEALTH ADMINISTERS LEAD POISONING PREVENTION AND CONTROL REGULATIONS PURSUANT TO SECTION 19a-111c OF THE CONNECTICUT GENERAL STATUTES. Owners are responsible for compliance with these regulations when applicable. The regulations impose requirements on owners for lead paint abatement and management to prevent lead exposure on the part of children under six years of age. The regulations govern methods of abatement, occupant and worker protection, containment to prevent contamination of the environment and disposal of lead-bearing waste. Municipalities are required to implement these regulations when applicable in connection with permitting and code enforcement activities. Call the Danbury Health and Housing Department or the Connecticut Department of Public Health should you have any questions about the applicability of the regulations or about lead issues.

EXHIBIT 10



Constable Michael Safranek

PO Box 3173
Danbury, CT 06813
203-417-2804
mikesafranek@yahoo.com

**State of Connecticut
County of Fairfield
City of Danbury**

Date: January 9, 2018

Then and there, by virtue hereof, I made service of the within and foregoing
original **Notice Of Violation**

Issued by the City of Danbury Health and Human Services Department

For the establishment known as :

TAILS OF COURAGE INC.

39 Smith Street, Danbury, CT 06810

Service was conducted upon an individual who identified herself as:
Crystal Lopez (207 Waldorf Avenue, Elmont, NY 11003) DOB 8/31/87),
manager of Tails of Courage.

Service was done on January 9, 2018, by leaving a true and attested copy of
the Violation Order, in **hand**, to Crystal Lopez.

Service was conducted at **39 Smith Street, Danbury, CT 06810**
on the above listed date.

The within and forgoing is a copy of the **Notice Of Violation** with doings
hereon endorsed.

Attested:

**Michael Safranek
Duly Elected and Sworn Constable
City of Danbury, Connecticut**

EXHIBIT 11

**CITY OF DANBURY
HEALTH & HUMAN SERVICES DEPARTMENT**



**155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810**
Tel (203) 797-4625 Fax (203) 796-1596

NOTICE OF VIOLATION

ISSUED TO:

**Kristan K. Exner, Esq.
270 Main Street
Danbury, CT 06810**

VIOLATION AT:

**Tails of Courage, Inc.
39 Smith Street
Danbury, CT 06810**

DATE: 02/22/2018

INSPECTOR: Ryan Boggan

You are hereby notified of violation(s) of local ordinances regarding **INFECTIOUS DISEASE** as shown below:

STATE OF CONNECTICUT GENERAL STATUTES

SECTION: 19a-206(d)

In each town, except in a town having a city or borough within its limits, the town director of health shall have and exercise all the power for preserving the public health and preventing the spread of diseases; and, in any town within which there exists a city or borough, the limits of which are not coterminous with the limits of such town, such town director of health shall exercise the powers and duties of his office only in such part of such town as is outside the limits of such city or borough, except that when such city or borough has not appointed a director of health, the town director of health shall, for the purposes of this section, exercise the powers and duties of his office throughout the town, including such city or borough, until such city or borough appoints a director of health.

PENALTY:

STATE OF CONNECTICUT GENERAL STATUTES

SECTION: 19a-206(a), 19a-206(b)

(a) Town, city and borough directors of health or their authorized agents shall, within their respective jurisdictions, examine all nuisances and sources of filth injurious to the public health, cause such nuisances to be abated or remediated and cause to be removed all filth which in their judgment may endanger the health of the inhabitants. Any owner or occupant of any

property who maintains such property, whether real or personal, or any part thereof, in a manner which violates the provisions of the Public Health Code enacted pursuant to the authority of sections 19a-36 and 19a-37 shall be deemed to be maintaining a nuisance or source of filth injurious to the public health. Any local director of health or his authorized agent or a sanitarian authorized by such director may enter all places within his jurisdiction where there is just cause to suspect any nuisance or source of filth exists, and abate or remediate or cause to be abated or remediated such nuisance and remove or cause to be removed such filth.

(b) When any such nuisance or source of filth is found on private property, such director of health shall order the owner or occupant of such property, or both, to remove, abate or remediate the same within such time as the director directs. If the owner of such property is a registrant, such director may deliver the order in accordance with section 7-148ii, provided nothing in this section shall preclude a director from providing notice in another manner permitted by applicable law. If such order is not complied with within the time fixed by such director: (1) Such director, or any official of such town, city or borough authorized to institute actions on behalf of such town, city or borough, may institute and maintain a civil action for injunctive relief in any court of competent jurisdiction to require the abatement or remediation of such nuisance, the removal of such filth and the restraining and prohibiting of acts which caused such nuisance or filth, and such court shall have power to grant such injunctive relief upon notice and hearing; (2) (A) the owner or occupant of such property, or both, shall be subject to a civil penalty of two hundred fifty dollars per day for each day such nuisance is maintained or such filth is allowed to remain after the time fixed by the director in his order has expired, except that the owner or occupant of such property or any part thereof on which a public eating place is conducted shall not be subject to the provisions of this subdivision, but shall be subject to the provisions of subdivision (3) of this subsection, and (B) such civil penalty may be collected in a civil proceeding by the director of health or any official of such town, city or borough authorized to institute civil actions and shall be payable to the treasurer of such city, town or borough; and (3) the owner or occupant of such property, or both, shall be subject to the provisions of sections 19a-36, 19a-220 and 19a-230.

19a-206(e)

When such nuisance is abated or remediated or the source of filth is removed from private property, such abatement, remediation or removal shall be at the expense of the owner or, where applicable, the occupant of such property, or both, and damages and costs for such abatement, remediation or removal may be recovered against the owner or, where applicable, the occupant, or both, by the town, city or borough in a civil action as provided in subsection (b) of this section or in a separate civil action brought by the director of health or any official of such city, town or borough authorized to institute civil actions.

APPEAL: You may appeal this violation notice to the State Department of Health under Section 19a-229 of the General Statutes within three business days upon receipt of this notice. (Rules of practice attached)

NATURE OF VIOLATION

Danbury Health and Human Services Department has received report of positive case of Canine Parvovirus in dog, "Cue", adopted from Tails of Courage facility at 39 Smith Street in Danbury Connecticut on February 17, 2018.

Submit to the Danbury Health and Human Services Department a record of the period of time during which Cue was in the care of Tails of Courage, Inc., including off-site foster care. Submit to the Danbury Health and Human Services Department a listing of all dogs in the care of Tails of Courage, Inc. during the period of time in which Cue was in the care of Tails of Courage Inc., and thus potentially exposed to Canine Parvovirus, as well as any dogs at location(s) where Cue was fostered off-site, if applicable. Submit to the Danbury Health and Human Services Department proof of immunization against Parvovirus greater than 14 days prior to potential exposure for all dogs potentially exposed to Cue. For all dogs that do not have this proof of immunization, a negative test for Parvovirus conducted within the last 30 days must be submitted to the Danbury Health and Human Services Department.

You are herewith ordered to correct these conditions within 5 days

Failure to correct these conditions within the time allowed will require us to take further action under the laws cited. If you have any questions, kindly contact the inspector above.

Cynthia Michelle Monahan
Director of Health or her agent

2/22/2018
Date

CC:

~~CONFIDENTIAL~~

Zoning

Fire Marshall

Animal Control Officer

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9/18/99

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Local Health Appeal and Hearing Process

This is a guide to the local health appeal and hearing process for the state of Connecticut Department of Public Health Hearing Office ("Hearing Office"). Please be advised that this information is only a guide and is not to be interpreted as legal advice from the Department of Public Health. You are strongly encouraged to consult with an attorney if you have any questions about a local health appeal.

How the Appeal Process Works:

- Your local health department issues a Notice of Violation (NOV) or order (collectively referred to hereinafter as "Order") to you, the owner or occupant of a property.

If you receive an Order and wish to appeal it, you may appeal by calling (860-509-7566), faxing (860-509-7553), or mailing your appeal to the Commissioner of the Department of Public Health at:

Public Health Hearing Office
Department of Public Health
410 Capitol Avenue, MS#13PHO
P.O. Box 340308
Hartford, CT 06134-0308
Tel. (860) 509-7566 FAX (860) 509-7553

- The Rules of Practice regulations that govern the local health appeal and hearing process are found at sections 19a-9-1 through 29 of the Regulations of Connecticut State Agencies "Rules of Practice" link at: [Rules of Practice](#).
- **Your right to appeal is time limited. You have three business days to appeal after you receive the Order**, either by telephone or in writing. If your initial appeal is made telephonically, you must also submit a **written appeal** that must be **received** by the Hearing Office within 10 days of the telephonic appeal. See Section 19a-9-14 of the Rules of Practice regulations at the link above for more information.
- Upon timely receipt of your written appeal, a Hearing Officer will be assigned to your case and a hearing will be scheduled at the Hearing Office in Hartford at the address provided above.
- The Hearing Officer may **uphold the Order, modify it, or vacate it** based on legal analysis, record exhibits, and testimony presented at the hearing. Local Health Departments have the burden of proof (preponderance of the evidence) unless it is a permit denial case, in which case the person appealing the permit denial has this burden.
- The Hearing Officer will issue a written Proposed Memorandum of Decision (PMOD) to you and other parties. You may request oral argument or permission to file briefs after receiving the PMOD. More information is provided in the cover letter to the PMOD.
- After oral argument/filing of briefs, or if none are requested, the Hearing Officer will review the file and issue a final decision, which will be sent to all parties via certified mail.
- An appeal must contain the following information:
 - (1) the name, address, and telephone number of the person claiming to be aggrieved;
 - (2) the name of the issuing authority;
 - (3) the way in which the order adversely affects the person claiming to be aggrieved;
 - (4) the order being appealed; and

(5) the grounds for appeal.

- If you do not have an attorney, you may appear on your own behalf (*pro se*). If you have an attorney you would like to represent you, your attorney must submit an appearance to the Hearing Office in writing. See Section 19a-9-28 of the Rules of Practice regulations at the link provided above. If you are a legal entity, such as a limited liability company (LLC) or corporation, **only an attorney may represent you at the hearing**. If you do not choose to have an attorney represent the entity, you may only testify as a witness and may not make legal arguments, cross-examine witnesses, or otherwise engage in the practice of law.
- If you think you will need an interpreter during the hearing, one will be provided free of charge upon request. Please let the Hearing Office know of your request as early as possible. You may NOT use a friend, family member, or coworker to serve as your interpreter or translator during a hearing. If you need an accommodation to fully participate in a hearing, please contact the Hearing Office.
- If you resolve the matter with your local health department before hearing and wish to withdraw your appeal and cancel any scheduled hearing, you must submit the **withdrawal of your appeal in writing** to the Hearing Office.
- If you receive the Notice of Hearing and know that you cannot be at the hearing, please let the Hearing Office know **immediately** and file a **request for continuance** in writing in order to cancel the scheduled hearing and reschedule. You should first contact the local health department and any other parties to the appeal for a position regarding your continuance request, documenting such in your written request.

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